

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID L. FULBRIGHT,

Petitioner,

No. CIV S-04-2490 DFL PAN P

vs.

D.L. RUNNELS, Warden,

Respondent.

ORDER

Petitioner, a state prisoner proceeding pro se, has timely filed a notice of appeal of this court's March 17, 2006 denial of his application for a writ of habeas corpus.¹ Before petitioner can appeal this decision, a certificate of appealability must issue. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).


A certificate of appealability may issue under 28 U.S.C. § 2253 “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The court must either issue a certificate of appealability indicating which issues satisfy the required showing or must state the reasons why such a certificate should not issue. Fed. R. App. P. 22(b).

¹ By order filed May 3, 2006, petitioner was granted an additional thirty days in which to file a notice of appeal and a certificate of appealability application.

1 For the reasons set forth in the magistrate judge's December 13, 2005 findings
2 and recommendations, petitioner has not made a substantial showing of the denial of a
3 constitutional right. Accordingly, a certificate of appealability should not issue in this action.

4 IT IS SO ORDERED.

5 DATED: 10/10/2006

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9 DAVID F. LEVI
United States District Judge